

CITY BOARD OF ADJUSTMENT
MINUTES of Meeting No. 455
Thursday, January 9, 1986, 1:00 p.m.
City Commission Room, Plaza Level
Tulsa Civic Center

MEMBERS PRESENT	MEMBERS ABSENT	STAFF PRESENT	OTHERS PRESENT
Bradley Chappelle, Chairman White Wilson	Clugston	Gardner Jones Moore	Jackere, Legal Department Garriott, Protective Inspections Smith, Code Enforcement

The notice and agenda of said meeting were posted in the Office of the City Auditor on Tuesday, January 7, 1986, at 11:35 a.m., as well as in the Reception Area of the INCOG offices.

After declaring a quorum present, Chairman Chappelle called the meeting to order at 1:00 p.m.

MINUTES:

On MOTION of BRADLEY and SECOND by WILSON, the Board voted 4-0-0 (Bradley, Chappelle, White, Wilson, "aye"; no "nays"; no "abstentions"; Clugston, "absent") to APPROVE the Minutes of December 19, 1985.

UNFINISHED BUSINESS

Case No. 13869

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1202 - Request a special exception to allow for a Drivers Examination Station affiliated with the Oklahoma Department of Public Safety, located at 4600 North Elgin.

Presentation:

The applicant, Keith Stephens, 332 East Mohawk Blvd., Tulsa, Oklahoma, stated that he is proposing to open a Drivers Examination Station at the above stated address.

Comments and Questions:

Ms. Wilson asked the applicant if there is currently a tag agency on the property in question and he answered that there is not.

Ms. Bradley stated a concern that, at the present time, access to the building is from Elgin and Detroit which are residential streets and asked the applicant if he could enter the property from 46th Street. Mr. Stephens replied that he has no problem with this proposal if it is acceptable to the Department of Public Safety; however, the amount of excavation and grading to make the entrance would be very costly.

Case No. 13869 (continued)

Mr. Gardner suggested that the Board could restrict the location of ingress and egress to the property to be no farther north than the CS zoning on the east of the property.

Board Action:

On MOTION of BRADLEY and SECOND by WHITE, the Board voted 4-0-0 (Bradley, Chappelle, White, Wilson, "aye"; no "nays"; no "abstentions"; Clugston, "absent") to APPROVE a Special Exception (Section 410 - Principal Uses Permitted In Residential Districts - Use Unit 1202) to allow for a Drivers Examination Station affiliated with the Oklahoma Department of Public Safety; subject to ingress and egress on Elgin and Detroit being within the depth of the 2 southernmost lots of the property:

Lots 4 thru 11, Block 12, Fairhill 2nd Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 13873

Action Requested:

Special Exception - Section 610 - Principal Uses Permitted In Office Districts - Use Unit 1206 - Request a special exception to allow a single-family dwelling and garage in an OM zoned district.

Variance - Section 630 - Bulk and Area Requirements In the Office Districts - Use Unit 1206 - Request a variance of the required 10' setback from the north property line and abutting residential district to 5', located at 2323 East 13th Place.

Presentation:

The applicant, Mark Fore, 223 East 45th Court, Tulsa Oklahoma, asked permission to build a detached 720 sq. ft. garage on property that is zoned OM and asked that the rear setback be reduced from 10' to 5'. A plot plan (Exhibit A-1) was submitted.

Comments and Questions:

Mr. Gardner informed that the property is a single family dwelling that has been zoned for office for several years, but has never been converted to office use. He pointed out that the properties to the west are primarily residential and if the property was zoned residential, the applicant would be allowed to construct the garage 3' from the property line.

Ms. Bradley asked the applicant what would be the use of the garage and he replied that he would use it for storage and to park his cars.

Case No. 13873 (continued)

Ms. Wilson asked the applicant if he resides in the home and he replied that he is the contractor, and that the owners live on the subject property.

Board Action:

On MOTION of WILSON and SECOND by WHITE, the Board voted 4-0-0 (Bradley, Chappelle, White, Wilson, "aye"; no "nays"; no "abstentions"; Clugston, "absent") to APPROVE a Special Exception (Section 610 - Principal Uses Permitted in Office Districts - Use Unit 1206) to allow a single-family dwelling and garage in an OM zoned district; and to APPROVE a Variance (Section 630 - Bulk and Area Requirements in the Office Districts - Use Unit 1206) of the required 10' setback from the north property line and abutting residential district to 5'; per plot plan submitted; finding that the area is predominately single family dwellings and if zoned such, the garage would be permitted 3' from the property line by right; on the following described property:

Lot 11, Block 10, Terrace Drive Addition, Resubdivision of Block 6 and Lots 1 thru 3, City of Tulsa, Tulsa County, Oklahoma.

Case No. 13879

Action Requested:

Special Exception - Section 710 - Principal Uses Permitted in Commercial Districts - Use Unit 1217 - Request a special exception to allow mobile home sales in a CS zoned district, located 150' east of the SE/c of 101st East Avenue and East Admiral Place.

Presentation:

The applicant, Connor Homes Corporation, requested by letter (Exhibit B-1) that Case No. 13879 be continued until January 23, 1986, to allow time for site plan revision.

Board Action:

On MOTION of WILSON and SECOND by WHITE, the Board voted 4-0-0 (Bradley, Chappelle, White, Wilson, "aye"; no "nays"; no "abstentions"; Clugston, "absent") to CONTINUE Case No. 13879 to January 23, 1986.

Case No. 13882

Action Requested:

Variance - Section 730 - Bulk and Area Requirements in the Commercial Districts - Use Unit 1221 - Request a variance of setback from the centerline of 11th Street from 50' to 35' to allow a pole sign, located at 4304 East 11th Street.

Presentation:

The applicant, Mohammad Johageri, 509-E North Walnut, Broken Arrow, Oklahoma, stated that he is returning to the Board with the sign

Case No. 13882 (continued)

plan (Exhibit C-1), which was requested at the last meeting. He informed that the lot is 140' wide and asked that the Mini-Mart sign be placed 35' from the centerline of 11th Street.

Comments and Questions:

Ms. Bradley asked if there are other signs in the area as close to the street as the sign in question. Mr. Johagerl replied that there are other signs that are closer than the Mini-Mart sign.

Ms. Wilson asked where the gas prices will be located and the applicant informed that the prices are on the sign with the light.

Ken Bode, Protective Inspections, stated that the applicant has enough frontage for 2 ground signs.

Ms. Wilson requested that the applicant state the reason for not locating the sign 50' from the centerline as required. He answered that the sign would be in the middle of the parking lot if it was moved back 50'.

Ms. Wilson asked the applicant to address the hardship and he answered that he did not understand the meaning of a hardship.

Mr. Gardner explained that the ordinance creates a hardship in that the plan calls for a 50' right-of-way and the city only owns 35'. The Code, which was adopted in 1970, put a greater sign setback distance on all properties.

Ms. Wilson asked Mr. Bode if the new sign and the liquor store sign, located at the end of the shopping center, would exceed the allotted signage for the property. Mr. Bode replied that he was not aware that two signs were located on the same property, but stated that he could not foresee a problem unless the liquor store sign is unusually large.

Board Action:

On MOTION of WILSON and SECOND by WHITE, the Board voted 4-0-0 (Bradley, Chappelle, White, Wilson, "aye"; no "nays"; no "abstentions"; Clugston, "absent") to APPROVE a Variance (Section 730 - Bulk and Area Requirements in the Commercial Districts - Use Unit 1221) of setback from the centerline of 11th Street from 50' to 35' to allow a pole sign; per sign plan submitted; subject to the sign not exceeding 27' and being placed on the existing pole, 35' from the centerline of 11th Street; and subject to the old Mini-Mart sign and price signs being removed and prices placed on the new sign; on the following described property:

Lots 1 and 2, Block 3, Beverly Hill Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 13892

Action Requested:

Minor Variance - Section 430 - Bulk and Area Requirements in Residential Districts - Use Unit 1206 - Request a minor variance of the lot area from 9,000 to 7,845 sq. ft. in order to allow a lot split, located on the NE/c of 26th Street and Delaware Place.

Presentation:

The applicant, Ray Baumgarten, was not present.

Comments and Questions:

Mr. Jones informed that he had received a phone call from the applicant, asking that the application be withdrawn.

Mr. Jackere suggested that the case be continued for 2 weeks, since a letter requesting withdrawal has not been received at the INCOG offices.

Board Action:

On MOTION of BRADLEY and SECOND by WHITE, the Board voted 4-0-0 (Bradley, Chappelle, White, Wilson, "aye"; no "nays"; no "abstentions"; Clugston, "absent") to CONTINUE Case No. 13892 until January 23, 1986.

NEW APPLICATIONS

Case No. 13893

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1205 - Request a special exception to allow a day care center in an RS-3 zoned district, located at 1837 North Cheyenne.

Presentation:

The applicant, Myrtle Fegan, 2017 West Ute Place, Tulsa, Oklahoma, stated that she is the owner and operator of a day care center located at 1836 North Cheyenne, which can accommodate 29 children. She asked the Board to permit her to expand her business to include a house across the street at 1837 North Cheyenne. Ms. Fegan explained that the additional space will allow greater flexibility in serving the children who are currently enrolled at the primary location and further satisfy the demand for childcare service in the area. A plat of survey (Exhibit D-1) was submitted.

Comments and Questions:

Mr. Chappelle asked the applicant to state the days and hours of operation for the center. She replied that she will open at 6 a.m. and close at 6 p.m., Monday thru Friday.

Case No. 13893 (continued)

Ms. Wilson asked how many children the new facility will service and the applicant replied that it is large enough to accomodate 41 children.

Ms. Fegan stated that she is not interested in a large enrollment, but rather is concerned with better care and more space for the children.

In response to Ms. Bradley's question as to the ages of the children, Ms. Fegan stated that they are from 12 months to the 6th grade.

Ms. White asked the number of people employed at the child care facility and the applicant replied that she has 6 employees and will add others for the center across the street.

Ms. Bradley asked the applicant if there would be a traffic problem in the area and Ms. Fegan informed that, in order to keep the cars from parking in the street, she has installed a circle driveway for leaving and picking up the children.

Ms. Fegan explained that she has landscaped her property and improved the appearance of the neighborhood.

Ms. White asked where the parents would pick up the children if the 6 employees are allowed to park in the circle drive. Ms. Fegan stated that the six employees work 2 shifts and are not all there at the same time and that the employees park in the regular drive in order to leave the circle open.

Ms. Bradley stated that she is concerned with the traffic that the added day care facility will generate in the area.

Protestants:

Mr. Chappelle stated that a petition (Exhibit D-2) opposing the day care center was submitted.

Board Action:

Ms. Bradley's motion for approval of the application, subject to days and hours of operation being Monday thru Friday, 6 a.m. to 6 p.m., died for lack of a second.

On MOTION of WILSON and SECOND by WHITE, the Board voted 2-2-0 (White, Wilson, "aye"; Bradley, Chappelle, "nay"; no "abstentions"; Clugston, "absent") to DENY a Special Exception (Section 410 - Principal Uses Permitted In Residential Districts - Use Unit 1205) to allow a day care center in an RS-3 zoned district.

The application was denied for lack of 3 affirmative votes.

Ms. Fegan asked if the Board would be inclined to approve the moving of the present child care center to the location across the street.

Case No. 13893 (continued)

Mr. Jackere informed the Board that they have the power to approve the application, on condition that the center at 1836 be closed.

Board Action:

On MOTION of WHITE and SECOND by WILSON, the Board voted 4-0-0 (Bradley, Chappelle, White, Wilson, "aye"; no "nays"; no "abstentions"; Clugston, "absent") to APPROVE a Special Exception (Section 410 - Principal Uses Permitted In Residential Districts - Use Unit 1205) to allow a day care center in an RS-3 zoned district; subject to the day care center at 1836 being closed and only 1 day care center being operated at 1837 North Cheyenne; subject to days and hours of operation being, Monday thru Friday, 6 a.m. to 6 p.m., and having a maximum of 40 children; on the following described property:

The north 97' of the south 497' of the west 166.9' of the SW/4, NE/4, SE/4, Section 26, T-20-N, R-12-E, City of Tulsa, Tulsa County, Oklahoma according to the recorded plat thereof.

Case No. 13894

Action Requested:

Minor Variance - Section 430.1 - Bulk and Area Requirements In Residential Districts - Use Unit 1206 - Request a variance of the required setback from 55' to 45' from the centerline of Detroit Avenue, located at 4929 South Detroit Avenue.

Presentation:

The applicant, Jim McKenna, Route 3, Sapulpa, Oklahoma, submitted a plot plan (Exhibit E-2) for a proposed carport that will extend 10' from the front of the house and 45' from the centerline of Detroit Avenue. Mr. McKenna stated that he represents Home Beauty Siding, the company installing the carport.

Comments and Questions:

Ms. Bradley asked the applicant if there is a carport in place at this time and he answered that there is not.

Ms. Bradley inquired if there are other carports in the area that are as close to the street as the one in question. Mr. McKenna replied that there are several others 45' from the centerline.

An aerial photograph (Exhibit E-1), substantiating the fact that there are several carports in the neighborhood, was submitted.

Board Action:

On MOTION of WHITE and SECOND by WILSON, the Board voted 3-0-1 (Chappelle, White, Wilson, "aye"; no "nays"; Bradley, "abstaining"; Clugston, "absent") to APPROVE a Variance (Section 430.1 - Bulk and Area Requirements In Residential Districts - Use Unit 1206) of the required setback from 55' to 45' from the centerline of

Case No. 13894 (continued)

Detroit Avenue; per plot plan submitted; finding that there are other carports in the area that encroach on the setback; on the following described property:

Lot 7, Block 2, Amended Plat of Riverview Village, City of Tulsa, Tulsa County, Oklahoma.

Case No. 13895

Action Requested:

Special Exception - Section 710 - Principal Uses Permitted in Commercial Districts - Use Unit 1217 - Request a special exception to allow motorcycle repair and service, located at 3203 East Pine.

Comments and Questions:

Mr. Chappelle pointed out to the applicant, Randall Daley, that this case was heard in June, 1985 and asked him to state what has changed from that time until today.

The applicant replied that he would like to discuss the hardship.

Mr. Jackere asked if there is anything different about the facts surrounding the case and Mr. Daley stated that he feels the case could be presented more adequately at this time. Mr. Jackere pointed out that the applicant has an opportunity to do that in the appeal that is now pending before the District Court.

Mr. Jackere asked if the application is different from the previous one heard by this Board. Mr. Daley replied that there are existing Use Unit 17's in the area that were not presented in the earlier case and one at 1416 North Harvard has gone into operation since that time.

Mr. Chappelle stated that he is of the opinion that the Board is hearing the same application and is inclined not to hear it again. Ms. Wilson stated that she is in agreement with Mr. Chappelle.

Board Action:

On MOTION of WHITE and SECOND by WILSON, the Board voted 4-0-0 (Bradley, Chappelle, White, Wilson, "aye"; no "nays"; no "abstentions"; Clugston, "absent") to **DENY** the rehearing of Case No. 13895; finding that this application is identical to Case No. 13619, which was heard by the Board on June 13, 1985; on the following described property:

W/2, S/2, SE/4, SE/4, SE/4 of Section 29, T-20-N, R-13-E, less the west 100', City of Tulsa, Tulsa County, Oklahoma.

Case No. 13896

Action Requested:

Variance - Section 1212.3 - Entertainment Establishments - Use Conditions - Request a variance to waive the screening fence

Case No. 13896 (continued)

requirement from an RS zoned district for a sexually oriented business located in a CS zoned district, located at 8271 East Admiral Place.

Presentation:

The applicant, Ellen Moore, 10661 East 31st Street, Tulsa, Oklahoma, submitted a plot plan (Exhibit E-1) of the new building that has just been constructed at the above stated address. She informed that her property abutts the expressway, which is zoned RS-3, and asked the Board to waive the fence requirement. Ms. Moore voiced a concern that assailants could hide behind the fence and possibly attack the women that are leaving the club when it closes at 2 a.m. She informed that there is a steep incline behind the building and the fence would serve no purpose.

Comments and Questions:

Ms. Wilson asked the applicant if the grading being done on the property is where the parking lot will be located and she answered in the affirmative.

Board Action:

On MOTION of WHITE and SECOND by WILSON, the Board voted 4-0-0 (Bradley, Chappelle, White, Wilson, "aye"; no "nays"; no "abstentions"; Clugston, "absent") to APPROVE a Variance (Section 1212.3 - Entertainment Establishments - Use Conditions) to waive the screening fence requirement from an RS zoned district for a sexually oriented business located in a CS zoned district; per plot plan; finding that there are no homes located in the residential zone along the expressway; on the following described property:

Lots 12 and 13, Block 4, Mingo Terrace Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 13897

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in Residential Districts - Use Unit 1205 - Request a special exception to allow a church to be located on Lots 14 and 15, Block 3, Henry Addition.

Variance - Section 1320(d) Off-Street Parking General Requirements - Requests a variance to allow off-site parking on Lots 11 and 12, Block 1, LeClaire Addition and on Lots 9, 10, 11, 14, 15, 17, Block 3, Henry Addition.

Variance - Section 1205.3a.1 - Community Services Use Conditions - Request a variance of the required one acre minimum land area for a church to 14,385 sq. ft.

Case No. 13897 (continued)

Variance - Section 440.7(d) - Special Exception Uses In Residential Districts - Requirements - Requests a variance from the required 25' setback from an R District to 12.5'.

Variance - Section 430 - Bulk and Area Requirements In Residential Districts - Request a variance from the required 50' setback from North Norfolk Avenue to 39', located at 2235 North Norfolk Street.

Presentation:

The applicant, R. E. Walker, 1409 West Virgin, Tulsa, Oklahoma, submitted a plot plan (Exhibit G-1) and requested that the Board allow the church to construct 4 additional classrooms. He explained that the present building was built in 1940 and is encroaching on the setback,

Comments and Questions:

Mr. Jones asked Mr. Walker if the church owns all of the lots that are mentioned in this application. He replied that they are negotiating the purchase of Lots 14, 11 and 9.

Mr. Jones pointed out that a tie contract which ties the lots together should be drawn up. The applicant stated that the church could tie the lots they presently own and have ample parking without the lots they are attempting to purchase.

Protestants: None.

Board Action:

On MOTION of BRADLEY and SECOND by WHITE, the Board voted 4-0-0 (Bradley, Chappelle, White, Wilson, "aye"; no "nays"; no "abstentions"; Clugston, "absent") to APPROVE a Special Exception (Section 410 - Principal Uses Permitted In Residential Districts - Use Unit 1205) to allow a church to be located on Lots 14 and 15, Block 3, Henry Addition; to APPROVE a Variance (Section 1320(d) Off-Street Parking General Requirements) to allow off-site parking on Lots 11 and 12, Block 1, LeClaire Addition and on Lots 9, 10, 11, 14, 15, 17, Block 3, Henry Addition; to APPROVE a Variance (Section 1205.3a.1 - Community Services Use Conditions) of the required one acre minimum land area for a church to 14,385 sq. ft; to APPROVE a Variance (Section 440.7(d) - Special Exception Uses In Residential Districts - Requirements) from the required 25' setback from an R District to 12.5'; and to APPROVE a Variance (Section 430 - Bulk and Area Requirements In Residential Districts) from the required 50' setback from North Norfolk Avenue to 39'; per plot plan submitted; subject to the execution of a tie contract on all of the lots owned by the church; finding that the church was constructed in the 1940's and many of the buildings in the older area are encroaching on the setback; on the following described property:

Lots 9, 15, 16, and 17, Block 3, Henry Addition and Lots 11 and 12, Block 1, LeClaire Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 13898

Action Requested:

Use Variance - Section 610 - Principal Uses Permitted In Office Districts - Use Unit 1214 - Request a use variance to allow an arts and crafts shop in an OL zoned district.

Variance - Section 1214.4 - Shopping Goods and Services Use Conditions - Request a variance of required 18 parking spaces to 14, located at 3247 East 29th Street.

Presentation:

The applicant, Don Happe, 2347 South Columbia, Tulsa, Oklahoma, stated that his wife would like to open an arts and crafts shop in a building that has previously been used as a day care center. He stated that, in his opinion, the proposed shop would be more compatible with the neighborhood than the child care facility. Photographs were submitted (Exhibit H-1).

Comments and Questions:

Mr. Chappelle asked Mr. Happe to state the days and hours of operation for the proposed business. He replied that the shop will be open Monday thru Saturday, 10 a.m. until 5 p.m.

Mr. Jackere asked if the shop will sell materials and have lessons taught there and Mr. Happe said lessons will be taught and handcrafted articles sold.

Ms. White asked the applicant to address the hardship. Mr. Happe stated that the building is designed for children, with low drinking fountains and bathroom facilities.

Mr. Jackere asked Mr. Happe why he needs the parking spaces reduced from 18 to 14. He informed that when the back yard is paved, approximately 18 spaces will be available.

When asked by Mr. Chappelle if he would like to withdraw the request for a variance of the required parking, he answered in the affirmative.

Ms. Wilson asked how the customers will get to the back parking lot. He informed that he has rented the access from his neighbor for the past 2 years and plans to continue. If this property should be sold in the future, Mr. Happe pointed out that there is 8' on his property which could be opened up as a driveway.

There was discussion as to whether the applicant has sufficient parking for the proposed business.

Mr. Garriott, Protective Inspections, informed that 25% of the required parking could be for compact cars.

Case No. 13898 (continued)

Mr. Gardner pointed out that the Board will need to make the decision if there is something unique about this property that will justify approving a commercial use in an office district.

Protestants: None.

Board Action:

On MOTION of WHITE and SECOND by BRADLEY, the Board voted 4-0-0 (Bradley, Chappelle, White, Wilson, "aye"; no "nays"; no "abstentions"; Clugston, "absent") to DENY a Use Variance (Section 610 - Principal Uses Permitted in Office Districts - Use Unit 1214) to allow an arts and crafts shop in an OL zoned district, and to DENY a Variance (Section 1214.4 - Shopping Goods and Services Use Conditions) of required 18 parking spaces to 14; finding that the applicant failed to demonstrate a hardship that would justify the granting of the variance request; on the following described property:

Lot 9, Block 1, Meadow Lane Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 13899

Action Requested:

Special Exception - Section 410 - Principal Uses Permitted in the Residential District - Use Unit 1205/1209 - Request a special exception to maintain a mobile unit on church property for classroom use in an RS-3 district.

Variance - Section 440.6(a) - Accessory Uses in Residential Districts - Requests a variance of time limit to allow use permanently, located at 701 South Mingo.

Comments and Questions:

Mr. Jackere informed that the City of Tulsa has an ordinance that governs nonresidential usage of mobile homes. It states that the Building Inspector can grant permission for that use for a period of 9 months, and it can be extended for another 3 months by the City Commission. He pointed out that this Board has no jurisdiction to grant nonresidential uses of mobile homes.

Mr. Gardner stated that the applicant has a manufactured building which is designed for a classroom. What makes the use a mobile is the method of transporting the use. By zoning definition, any building structure which is transported on a trailer is a "mobile home".

Presentation:

The applicant, Paul Gallahar, 701 South Mingo, Tulsa, Oklahoma, stated that, in October of 1982 the Board of Adjustment heard Case No. 12259, at which time the church was given permission to use the

Case No. 13899 (continued)

unit as a classroom for a period of 3 years. He stated that the unit is set up on a permanent foundation and asked the Board to allow the use to continue.

Ms. White asked the applicant why the church does not add on permanent classrooms. He replied that part of the property is in a flood zone and the church has not experienced enough growth to relocate and build another building.

Mr. Gardner pointed out that the Board could determine that the classroom is actually a manufactured building designed for nonresidential use and not a mobile home; then the matter becomes a building code question.

Mr. Gallahar asked that the Board grant permission to use the classroom for another 3-year period if not inclined to allow the use permanently.

Mr. Jackere informed that a feature in the Building Code prevents the use; therefore, the applicant can file an application with the Building Inspector and if denied, file an appeal with the Building Appeals Board.

Protestants: None.

Board Action:

Ms. Wilson's motion to approve the unit for a period of 3 years, and deny the variance, died for lack of a second.

On MOTION of BRADLEY and SECOND by WHITE, the Board voted 3-1-0 (Bradley Chappelle, White, "aye"; Wilson, "nay"; no "abstentions"; Clugston, "absent") to DETERMINE that this application is not under Board of Adjustment jurisdiction.

Case No. 13900

Action Requested:

Special Exception - Section 420.1 - Accessory Uses in Residential Districts - Use Unit 1211 - Request a special exception to allow a home occupation for photographing purposes, located south of the SE/c of Sheridan Road and East 76th Street.

Variance requested to allow one person, other than family member, to answer the phone since Mr. Huff is a bachelor.

Presentation:

The applicant, David Huff, requested by letter (Exhibit J-1) that Case No. 13900 be continued until January 23, 1986.

A letter and photographs (Exhibit J-2) were submitted by Buddy Smith, Code Enforcement.

Case No. 13900 (continued)

Board Action:

On MOTION of BRADLEY and SECOND by WILSON, the Board voted 4-0-0 (Bradley, Chappelle, White, Wilson, "aye"; no "nays"; no "abstentions"; Clugston, "absent") to CONTINUE Case No. 13900 to January 23, 1986.

Case No. 13901

Action Requested:

Variance - Section 1221.3(f) - General Use Conditions for Business Signs - Request a variance of setback for 4 on-premise signs: (1) from 50' to 42' on west side of property (No. 1 on Exhibit A), (2) from 60' to 42' on south side of property at west end (No. 2 on Exhibit A), (3) from 60' to 53'6" on south side of property at east end (No. 3 on Exhibit A), (4) from 60' to 42' on south side near middle of property (No. 4 on Exhibit A), located on the NE/c of South Lewis Avenue and East 21st Street.

Presentation:

The applicant, James Adair, requested that Case No. 13901 be continued until January 23, 1986, to allow sufficient time to advertise for additional relief.

Board Action:

On MOTION of WHITE and SECOND by WILSON, the Board voted 4-0-0 (Bradley, Chappelle, White, Wilson, "aye"; no "nays"; no "abstentions"; Clugston, "absent") to CONTINUE Case No. 13901 to January 23, 1986.

Case No. 13902

Action Requested:

Special Exception - Section 610 - Principal Uses Permitted in Office Districts - Use Unit 1211 - Request a special exception to permit a drive-in banking facility.

Variance - Section 630 - Bulk and Area Requirements in the Office Districts - Request a variance of the required setback from the centerline of Birmingham Street from 50' to 41', located on the NW/c of 21st Street and South Birmingham.

Presentation:

The applicant, Roy Farley, was represented by Terry Malloy, 1924 South Utica, Tulsa, Oklahoma, who submitted a plot plan (Exhibit K-1). Mr. Malloy stated that the building in question was built in the 1950's, used for office space at that time, and none of the proposed construction will further encroach on the setback. He informed that the application which was submitted and approved by the Federal Bank Board was for a full service bank and not just a drive-in facility.

Case No. 13902 (continued)

Comments and Questions:

Ms. Bradley asked if there will be drive-in facilities and Mr. Malloy replied that there will be an appended facility on the property.

Ms. Bradley asked Mr. Jones if the special exception to permit the bank is needed. He informed that the drive-in portion could be an accessory use if the Board determines that the principal use is a full service bank.

Mr. Malloy reiterated that the bank in question is definitely a full service bank.

Ms. White asked Mr. Malloy if the bank in question is similar to the banking facility at 21st and Yorktown, which is a bank with 2 drive-in windows and he answered in the affirmative.

Roy Farley, Box 156, Jenks, Oklahoma, stated that he is the contractor for the project and that the only addition to the building will be the vestibule in front and the office portion for the tellers.

Mr. Jackere read from the Code that a bank is permitted by right in office districts, but a drive-in bank facility which is the principal use or detached accessory use requires approval by the Board of Adjustment.

Ms. White asked if there are 3 lanes and Mr. Malloy stated that there are 3 lanes which are attached to the principal building by a roof.

Mr. Chappelle stated that, in his opinion, the drive-in is attached and he would be inclined to approve the application.

Protestants:

Sharon Clark, 2508 East 18th Street, Tulsa, Oklahoma, represented the Lewiston Gardens Homeowners Association which comprises approximately 400 households. She stated that the neighborhood to the north is a quiet, tranquil area, made up of older people and young professionals. Ms. Clark stated that she is concerned with the added traffic in the residential streets.

Randy Westbrook, 2548 East 20th Street, Tulsa, Oklahoma, informed that his home is located to the north of the subject property and is concerned that the proposed facility will present a traffic hazard for his young children. Mr. Westbrook stated that the site has been under construction for approximately 90 days, evidently without a permit. He presented photographs (Exhibit K-2) of dirt placed on his driveway from excavation on the building site.

Case No. 13902 (continued)

Mr. Chappelle asked Mr. Westbrook if he thinks the drive-in facility will generate more traffic than a regular bank. Mr. Westbrook replied that he believes the traffic will increase 300%.

Ms. White informed that the bank at 21st and Yorktown did not cause a traffic problem until it added 2 drive-in windows, and now the traffic stacks up on Yorktown for a block.

Max Wells, 2547 East 20th Street, Tulsa, Oklahoma, pointed out that the the neighborhood already has a traffic problem and asked the Board to deny the request.

Terry May, 2603 East 20th Street, Tulsa, Oklahoma, who submitted a petition (Exhibit K-3) opposing the drive-in bank, stated that there are many people that walk and ride bicycles in the area and is concerned about their safety.

Charles Crain, 2444 East 20th Street, Tulsa, Oklahoma, stated that he feels the neighborhood has an over abundance of traffic from the doctor's building and Charley Mitchell's Restaurant and asked that the application be denied.

Applicant's Rebuttal:

Mr. Malloy asked the Board to look at the entire proposal and pointed out that the drive-in will only occupy 1/10 of the square footage of the bank.

Ms. Wilson asked Mr. Malloy if his client would be interested in having a bank without a drive-in facility and he answered that his client would not, but that he could have one by right.

Board Action:

On MOTION of BRADLEY and SECOND by WHITE, the Board voted 3-1-0 (Bradley, White, Wilson, "aye"; Chappelle, "nay"; no "abstentions"; Clugston, "absent") to **DENY** a **Special Exception** (Section 610 - Principal Uses Permitted In Office Districts - Use Unit 1211) to permit a drive-in banking facility; finding that the granting of the special exception request would be injurious to the neighborhood and not in harmony with the spirit and intent of the Code; and to **APPROVE** a **Variance** (Section 630 - Bulk and Area Requirements In the Office Districts) of the required setback from the centerline of Birmingham Street from 50' to 41'; finding a hardship imposed on the applicant by the fact that there are many existing building encroachments in the area; on the following described property:

Lot 9 and 10, Block 2, Gilbert Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 13903

Action Requested:

Variance - Section 241.c - Existing Building Encroachment on Front Yards or Building Setbacks - Request a variance of required average setback off 15th Street from 78.5' to 57'.

Variance - Section 630 - Bulk and Area Requirements in the Office Districts - Request a variance of the floor area ratio from 30% to 37%.

Variance - Section 1211.4 - Office and Studio Off-Street Parking and Loading Requirements - Request a variance of required parking spaces from 9 to 5, located east of the SE/c of Utica Avenue and 15th Street.

Presentation:

The applicant, John Pagonis, was represented by Susie Pagonis, 1718 East 15th Street, Tulsa, Oklahoma, who submitted a plot plan (Exhibit L-1), stated that she bought the building in question for an office. She informed that the structure has not been changed except for enclosing the porch, which increased the floor area ratio. Ms. Pagonis stated that the basement, which will not be used, was included in the square footage when determining the required parking spaces. She pointed out that she and one other employee will be working in the office. Photographs (L-2) were submitted.

Comments and Questions:

Ms. Bradley asked Ms. Pagonis to state the use of the small accessory building on the back of the property. She replied that it was previously used as a beauty shop and an apartment, but stated that she intends to remove the building after work on the office is completed.

Mr. Chappelle asked the use of the building in question and Ms. Pagonis replied that it is an employment agency.

Ms. Wilson asked where the parking lot will be and Ms. Pagonis answered that the accessory building will be removed and that space utilized for parking.

In answer to Ms. White's inquiry about the number of employees, Ms. Pagonis stated that there will be only 2 and the clients will be seen by appointment only.

Protestants: None.

Board Action:

On MOTION of WHITE and SECOND by WILSON, the Board voted 4-0-0 (Bradley Chappelle, White, Wilson, "aye"; no "nays"; no "abstentions"; Clugston, "absent") to **APPROVE** a Variance (Section 241.c - Existing Building Encroachment on Front Yards or Building Setbacks) of required average setback off 15th Street from 78.5' to

Case No. 13903 (continued)

57'; to **APPROVE** a Variance (Section 630 - Bulk and Area Requirements in the Office Districts) of the floor area ratio from 30% to 37%; and to **APPROVE** a Variance (Section 1211.4 - Office and Studio Off-Street Parking and Loading Requirements) of required parking spaces from 9 to 5; subject to the accessory building being demolished; finding that many of the older structures on 15th Street are encroaching on the setback; and finding that the basement, which increased the floor area ratio, houses the heating system and will not be used for office space; on the following described property:

W/2 of Lots 1 and 2, Block 1, Orcutt Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 13904

Action Requested:

Variance - Section 207 - Street Frontage Required - Request a variance of the required 30' frontage on a public street so that a private street can be used for access to 41st Street, located west of the NW/c of 41st Street and Lewis Avenue.

Presentation:

The applicant, Adrian Smith, was represented by Attorney Bill Grimm, 610 South Main Street, Tulsa, Oklahoma, who submitted a plot plan (Exhibit M-1). He explained that he was before the Board in June of last year for a lot split application, seeking a similar variance, which was denied because of drainage requirements. Based on that decision, the developer has proceeded with a Planned Unit Development which has been approved by the Planning Commission. Mr. Grimm informed that the City has indicated that they prefer that the street be a private one. He pointed out that the homeowners will be required to maintain the street and suggested that the shape of the property and the topography of the land create a hardship. Mr. Grimm stated that there is water detention to the rear of the property and a 36" drainage facility will be installed on the northwest corner which will drain into a storm sewer. Along the west and north of the property, a small wall will be constructed to divert water runoff in those directions.

Comments and Questions:

Mr. Jackere asked if the lot configuration is the same as the previous application and Mr. Grimm answered in the affirmative.

Ms. Wilson asked Mr. Grimm if he has met with the neighbors and revised the plans and he replied that there were two meetings which addressed the drainage, the last one being in September or October.

Ms. Bradley inquired as to who will maintain the detention pond. Mr. Grimm stated that this will be the responsibility of the homeowners.

Case No. 13904 (continued)

Protestants:

Doug Cox, 4017 South Wheeling, Tulsa, Oklahoma, stated that he owns the property approximately 200' to the north and west of the subject property. He expressed a concern that the street will not be maintained by the city and pointed out that a hardship has not been stated.

Edward C. Lawson, 1920 East 41st, Tulsa, Oklahoma, lives south of the development and pointed out that the entrance on 41st Street is a traffic hazard and could cause the loss of lives. He stated that his home is very near the property in question and he did not receive a notice of this meeting.

Lesa Jennet, 1707 East 41st Street, Tulsa, Oklahoma, submitted a petition (Exhibit M-2) of homeowners in the area that oppose the granting of the variance request. She pointed out that the visibility is poor at the Wheeling intersection and asked that the application be denied. She pointed out that the owners of property in the area did not receive notice of this meeting.

There was discussion by the Board as to why the adjoining property owners did not receive proper notice.

Kay Lang, 1725 East 41st Street, Tulsa, Oklahoma, informed that she found out about the meeting from a neighbor and is concerned about the traffic situation.

Reg Barnes, 2020 East 38th Street, Tulsa, Oklahoma, has lived in the area for 30 years and is concerned with flooding in the neighborhood. He stated that the development only has preliminary approval at this time.

Ms. Bradley asked if the protestants were at the TMAPC hearing. They all agreed that they did not know of such a meeting and that there had never been a sign on the property which would indicate such action.

Mr. Jackere pointed out to Mr. Grimm that the whole process could be made very simple if the developers would just construct a street that will be acceptable to the City.

Mr. Jones stated that he has just received information from his office that the preliminary plat, not a PUD went before the Planning Commission and that is why a sign was not placed on the property. This plat was approved.

Mr. Grimm apologized for the misrepresentation and informed that he had not seen this case until yesterday.

Mr. Jackere stated that this case was heard in June and there has been nothing different presented other than a plat as opposed to a lot split. He asked Mr. Grimm to address the hardship and he answered that the size and depth is the hardship.

Case No. 13904 (continued)

Board Action:

On MOTION of WHITE and SECOND by WILSON, the Board voted 4-0-0 (Bradley, Chappelle, White, Wilson, "aye"; no "nays"; no "abstentions"; Clugston, "absent") to DENY a Variance (Section 207 - Street Frontage Required) of the required 30' frontage on a public street so that a private street can be used for access to 41st Street; finding that this variance request is essentially the same as the one previously denied by the Board; on the following described property:

Lots 6 and 7, Block 1, Royal Oak Heights Addition, City of Tulsa, Tulsa County, Oklahoma.

Case No. 13906

Action Requested:

Variance - Section 207 - Street Frontage Required - Request a variance of the minimum street frontage required from 30' to 0' in order to permit access by a private mutual access easement in order to permit a lot split, located west of the NW/c of 27th Street and Yorktown Avenue.

Presentation:

The applicant, E. C. Sumner, was represented by Bill Grimm, 610 South Main, Tulsa, Oklahoma, who submitted a location map (Exhibit N-1) and stated that the lot split under application has been approved by TMAPC. Mr. Grimm explained that an oversized lot is being split into 4 lots, which will be more commensurate with those in the neighborhood, and a private cul-de-sac will serve the existing home and the 3 others that will be constructed. He pointed out that there will be onsite detention to prevent additional water runoff in the creek which is behind the homes.

John Woolman, 2411 East Skelly Drive, Tulsa, Oklahoma, explained that the lots are being purchased by people that live in the neighborhood and they are very supportive of the project.

Comments and Questions:

Ms. Bradley asked Mr. Grimm if the lot split was approved by TMAPC on Wednesday and he answered in the affirmative.

Ms. Wilson asked Mr. Grimm to address the hardship and he replied that the size and shape of the property is the hardship.

Board Action:

On MOTION of WHITE and SECOND by WILSON, the Board voted 4-0-0 (Bradley, Chappelle, White, Wilson, "aye"; no "nays"; no "abstentions"; Clugston, "absent") to APPROVE a Variance (Section 207 - Street Frontage Required) of the minimum street

Case No. 13906 (continued)

frontage required from 30' to 0' in order to permit access by a private mutual access easement in order to permit a lot split; per plat submitted; finding a hardship demonstrated by the size and shape of the property; on the following described property:

Lots 1 and 2, Block 1, Forest Hills Addition, City of Tulsa, Tulsa County, Oklahoma.

OTHER BUSINESS

Case No. 13877

Action Requested:

The applicant, Sammy Pagna, 1011 West 121st Street South, Jenks, Oklahoma, requested a refund of application fee.

Comments and Questions:

Mr. Jones informed that the case has been withdrawn. He suggested that, since the application has been processed, the public hearing portion of the fee, in the amount of \$25.00, be refunded.

Board Action:

On MOTION of WILSON and SECOND by BRADLEY, the Board voted 4-0-0 (Bradley, Chappelle, White, Wilson, "aye"; no "nays"; no "abstentions"; Clugston, "absent") to REFUND the public hearing portion of the application fee, in the amount of \$25.00.

Case No. 9247

Action Requested:

Shadow Mountain Institute, 6262 South Sheridan, Tulsa, Oklahoma, request a review and consideration of minutes as to number of permitted beds.

Comments and Questions:

Mr. Jones informed that, in 2 previous cases, the Institute was approved for approximately 90 beds (three 30 bed wings). He informed that the applicant is asking for 10 beds which will be located in an empty classroom.

Presentation:

Kenny Smith, 502 West 6th, Tulsa, Oklahoma, represented Dillon Family Youth Services. He informed that Shadow Mountain Institute first came before the Board in 1976 and asked for a treatment center, which was approved for 30 beds. The time limit expired on the special exception before financing could be acquired and they came before the Board again in 1979 and again received approval for 90 beds. Mr. Smith informed that the Institute needs 10 additional beds, 7 beds in a classroom and 3 more beds in the existing bedroom area.

Case No. 9247 (continued)

Additional Comments:

Ms. Wilson asked Mr. Smith if there will be only 10 additional beds and he answered in the affirmative.

Mr. Jackere asked Mr. Smith if he plans to come back to the Board each time more beds are needed. He replied that he would not be opposed to the Board requiring the Institute to go through the full hearing process again if any more beds are needed.

Board Action:

On MOTION of WHITE and SECOND by WILSON, the Board voted 4-0-0 (Bradley, Chappelle, White, Wilson, "aye"; no "nays"; no "abstentions"; Clugston, "absent") to APPROVE a request for 10 additional beds to be placed in the existing building; subject to the applicant filing a new application if the number of beds for the entire facility exceeds 100.

There being no further business, the meeting adjourned at 4:55 p.m.

Date Approved

2-6-86


Chairman

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